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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,723	04/16/2004	Sam Jones	APTC-1-1002	9945

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EXAMINER

STERLING, AMY JO

ART UNIT PAPER NUMBER

3632

DATE MAILED: 06/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/825,723	JONES, SAM	
	<b>Examiner</b>	<b>Art Unit</b>	
	Amy J. Sterling	3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 24-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

*[Handwritten signature]*

### **DETAILED ACTION**

This is the first Office Action for application number 10/825,723, Adjustable Wood Working Stand, filed on 4/16/04. Claims 1-26 are pending. This application claims benefit of 60/466,809, 07/16/2003 although data provided by applicant is not consistent with PTO records. Please file proof of provisional and/or filing date.

### ***Election/Restrictions***

Claims 24-26 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 4/26/05. An election of species was also Required in the application and in a telephone call with Mark Lorbiecki, on 6/8/05, it was clarified that the Restriction was intended to be between

Species I: Figs. 1-3

Species II: Figs. 3 and 4

The applicant has orally elected Species I, on 6/8/05 which should be confirmed in writing in the next reply. Claims 1-23 are generic claims.

### ***Drawings***

The drawings are objected to because "threaded shaft 138" is not shown as threaded in all figures.

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The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "how the leg is pivotal" of claim 13 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not

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clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are:

"The cruciate hinges 158" (specification page 5 lines 15). It is unclear that the element 158 is a hinge, which implies that the device has a flexible joint that allows the device to swing" which is not taught by the specification or the drawings. Also the term "cruciate" is used in conjunction with a "cross" and it is unclear how the L-shaped elements can be "cruciate".

Also, the specification (Page 2, lines 20-25) discloses in the summary of invention "a first member secured to the leg, a second member adjustably secured to the first member... The upper end of the second member extends above the upper end of the first member". Later in the specification (page 3, lines 7-9), it recites, "The first member preferably comprises a first tubular member. A second tubular member is also provided, into which the first tubular member is slideably engaged". It seems as if the members are mistakenly interchanged in this portion of the specification since the first portion clearly states that the second member extends above the first member. This is interpreted to mean that the first member is 146 and the second member is 144.

Also not shown or adequately taught is the legs are pivotally secured to the first member. The figures nor the specification show the legs being pivotal with respect to the first member, but teach leg (156) which appears to be fixedly secured to the first member (146).

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In the Detailed Description of the Drawings (page 5 lines 14 and 15) the specification refer to an "inner extrusion 144" and an "outer extrusion 146" and it is unclear if this is the same element as the first and second members. The terminology must be kept constant throughout the application.

The specification is replete with inconsistencies and this list is not intended to be exhaustive. All inconsistencies are required to be fixed.

### ***Claim Objections***

Claim 5, 10, 19 and 22 are objected to because of the following informalities:

The claim recites that "the screw is rotatable secured to said second tubular member" and is "bearing against said first tubular member". The first and second members appear to be reversed.

Claims 10 and 23 recites, that an "anti-rotation lock...is coupled to said first tubular member" and it is unclear how the lock is coupled to the first member, when it appears to be coupled to the shaft and the second tubular member.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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Claims 1-13, 17-19 and 21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 1 recites the term "retention member" which does not seem to appear in the specification.

Claims 3 and 21 recite that, "said first member is slideably engaged, the leg being attached to said second tubular member" and the specification does not adequately describe how this can be. It seems as if the term first and second are mistakenly reversed.

Claim 7 recites that the first tubular member is slideably engaged into the second tubular member and the leg is attached to the second tubular member. It appears that the terms "first and second members" are reversed.

Claims 9, 17 and 22 recite, "a nut threaded on said shaft and bearing against a portion of said first tubular member" and the specification does not adequately describe how the nut bears against a first member.

Claim 13 recites that "said leg is pivotally secured" and the specification does not adequately describe how this leg is pivotal relative to the first member.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claim 1-23 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 14 and 20 all recite the "first and second members" and it is unclear if this is the same elements as the described by the Specification (page 5 lines 14 and 15) "inner extrusion 144" and an "outer extrusion 146".

Claims 4, 12, 15 and 21 recite, "a course adjustment mechanism" and it is unclear if this is intended to be the same element as the recitation in claim 1 of a "first adjustment mechanism". Clarification is required.

Claim 9 recites, that "the first adjustment mechanism has a nut threaded on the shaft and bearing against a portion of the first tubular member" and it appears that the nut on the shaft is a portion of the "retention member"

Claim 11 recites the limitation "said lock" in line 2. There is insufficient antecedent basis for this limitation in the claim. It is unclear if this is intended to be the same lock as the "anti-rotation lock" as recited by claim 10.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –



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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 7-9, 12, 21 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 5297779 to Collins, Jr. et al.

As best understood, the patent to Collins, Jr. et al. discloses an adjustable stand having a leg (18), a first tubular member (20) having an upper and lower end, the first member secured to the leg (18), a second tubular member (26) slidably and adjustably secured to the first member, the second member adjustably secured to the first member (20), the second member having an upper and lower end, the upper end extending above the upper end of the first member, a support member (64) secured to the upper end of the second member (26), a first course adjustment mechanism (40, 42) having a screw rotatably secured to the first tubular member, the screw having an end selectively bearing against the second tubular member, coupled between the first member and the second member, movement of the first course adjustment mechanism shifting the position of the second member relative to the first member and locking the position of the first and second members relative to each other, a retention member (54, 58) having a biasing member (54) secured between the first member and the second member, securing the first member to the second member while allowing limited movement therebetween. Collins, Jr. et al. discloses wherein a shaft (62) is partially held within the first tubular member (20) and the retention member has a nut (54) which is threaded on the shaft and bears against a portion of the first tubular member.

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Claims 14-18 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 839541 to Berger.

The patent to Berger discloses a plurality of legs (1), a first tubular elongated member (7) secured to the at last one leg, having an upper and lower end, a second tubular elongated member (11) adjustably secured to the first elongated member having an upper and lower end the upper end being above the first elongated member, a first course adjustment mechanism (6) coupled to the second elongated member and interfacing the first elongated member for shifting the members relative to one another a compression spring biasing means (15) coupled between the lower ends of the first and second elongated members below the upper ends of both, the biasing means (15) retaining the second elongated member from unrestrained upward member relative to the first member, a holder (11) or support secured to the upper end of the second member. Berger teaches a threaded shaft (12) partially held within the first tubular member, the shaft having a nut (17) threaded on the shaft and bearing against the first member.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 10, 13 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 5297779 to Collins, Jr. et al. as applied to claims 1-5, 7-9, 12, 21 and 22 above, and in view of United States Patent No. 2336104 to Laube et al.

Collins, Jr. et al. discloses applicant's basic inventive concept, all the elements which are shown above with the exception that it does not show that the course adjustment mechanism has a friction pad between the first and second tubular member opposite the screw and Collins, Jr. et al. does not show an anti-rotation lock pin secured to and transversely through the shaft and coupled to the first tubular member. Collins, Jr. et al. also does not teach wherein the leg is pivotally secured to the first member.

Laube et al. teaches a first and second tubular members (37, 42) slidably engaged to each other, with a course adjustment mechanism having a screw (48), and a friction pad (55) between first and second member opposite the screw (48), used in order to protect the member from screw markings during use. Laube et al. also a threaded shaft (45) which has an anti rotation-lock pin (46) secured to and transversely through the shaft (45) used to prevent rotation of the shaft relative to the tubular members. Laube et al. also teaches a leg (34) which is pivotally secured to the first tubular member (37), used to fold the legs, when not in use. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Laube et al. to have had a pivotal leg for folding, an anti-rotation

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lock in order to prevent rotation between desired members and to have added a friction pad, in order to prevent damage to the tubular members during use.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 5297779 to Collins, Jr. et al. above, and in view of United States Patent No. 2336104 to Laube et al. as applied to claims 1 and 7-10 and further in view of United States Patent No. 5984353 to Rasmussen.

Collins, Jr. et al. and Laube et al. disclose applicant's basic inventive concept, all the elements which are shown above with the exception that they do not teach wherein the cross section of the first tubular member is non-circular.

Rasmussen teaches tubular members (16, 20), which have a non-circular cross section, used in order to prevent rotation of the members relative to each other. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Rasmussen to have had a non-circular cross-section for a tubular member in order to prevent rotation.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 839541 to Berger as applied to claims 14-18 above, and in view of United States Patent No. 2336104 to Laube et al.

Berger discloses applicant's basic inventive concept, all the elements which are shown above with the exception that it does not show does not show an anti-rotation lock secured to the shaft and coupled to the first tubular member.

Laube et al. teaches a first and second tubular members (37, 42) slidably engaged to each other, a threaded shaft (45) which has an anti rotation-lock (46) secured to the shaft (45) used to prevent rotation of the shaft relative to the tubular members. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Laube et al. to have an anti-rotation lock in order to prevent rotation between desired members.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following documents show various stands

6609686 to Malizia

5435509 to Bingham

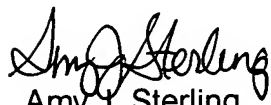
3064932 to Holderman

2845244 to Prokop

Any inquiry concerning this communication should be directed to Amy J. Sterling at telephone number 571-272-6823. The examiner can normally be reached (Mon-Fri 8am-5:00pm). If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 571-272-6815. The fax machine number for the Technology center is 703-872-9306 (formal amendments), informal amendments or

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communications 571-273-6823. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist at 571-272-3600.

  
Amy J. Sterling  
6/13/05